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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,392	05/07/2001	Rory Joseph Cutaia	856870-1	3892

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EXAMINER
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TORRES, MARCOS L

ART UNIT	PAPER NUMBER
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2687

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/851,392

Applicant(s)

CUTAIA ET AL.

Examiner

Marcos L Torres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-4, 6, 11-14, 21-24, 26 and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saaverda US006459702B1 in view of Rasanen US006647006B1 in further view of McKinnin US20020003806.

As to claim 1, Saaverda discloses a method for managing telecommunications services provided by a colocation site in a telecommunications resources (see col. 5, lines 56-65), the method comprising the steps of: communicating with customers regarding at least one telecommunications resource within the at least one colocation site (see col. 8, lines 10-12); managing provisioning of said at least one telecommunications resource within the at least one colocation site in response to communications with said customers (see col. 6, lines 31-38, 91-16); collecting information on operation of said at least one telecommunications resource; and reporting to said customers based on said collected information (see col. 8, lines 6-15; col. 9, lines 6-29). Saaverda does not specifically disclose that the colocation site has a plurality of disparate non-homogenous telecommunications resources or wherein each customer operates a different one of disparate telecommunications networks. Rasanen discloses a plurality of disparate non-homogenous telecommunications resources connected (see col. 4, lines 48-67), thereby complying with the FCC telecommunication act of 1996. McKinnon discloses the information comprising a measure of an amount of telecommunications bandwidth consumed by the respective ones of the customers at the common colocation site, wherein each customer operates a different one of

disparate telecommunications networks (see par. 0052). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings for the simple purpose of monitoring and managing the telecommunication resources.

As to claim 2, Saaverda discloses the method wherein the communicating step further comprises receiving requests for pre-sales information including pricing, availability, and space within the colocation site (see col. 8, lines 6-15).

As to claim 3, Saaverda discloses the method wherein the communicating step further comprises receiving an order for use of said at least one telecommunications resource (see col. 8, lines 20-22).

As to claim 4, Saaverda discloses the method wherein said communicating step further comprises providing said customers with account status (see col. 14, lines 49-54).

As to claims 11 and 12, the method, wherein said managing step further comprises installing equipment provided by said customers within said colocation site and providing rack space and electrical power for said equipment provided by said customers is disclosed in the admitted prior art (see page 2, lines 20-24).

As to claims 6 and 13, Saaverda discloses the method wherein said managing step further comprises maintaining a database reflecting status of all telecommunications resources in said at least one colocation site, said status further including at least one of identification of equipment, space availability, capacity, current load, and customer allocation (see col. 9, lines 30-42; col. 10, lines 11-67).

As to claim 14, Saaverda discloses the method wherein said collecting step further comprises collecting data in accordance with TCP/IP protocol from network devices in a colocation site (see col. 20, lines 5-7). Saaverda do not specifically disclose using Simple Network Management Protocol (SNMP). However, he discloses that any well known protocol can be used, since Simple Network Management Protocol is a common and well known protocol, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use this protocol.

Regarding claims 21-24, 26 and 31-34, they are the corresponding apparatus claims of method claims 1-4, 6 and 11-14. Therefore, claims 21-24, 26 and 31-34 are rejected for the same reason shown above.

6. Claims 7-10 and 15-40 are rejected under 35 U.S.C. 103(a) as being unpatentable Saaverda US006459702B1 in view of Rasanen US006647006B1 in further view of McKinnin US20020003806 as applied to claims 1-4, 6 and 11-14 above, and further in view of Cornell.

As to claims 7 and 20, Saaverda does not specifically discloses the method wherein the managing step further comprises changing connections between said at least one telecommunications resource and at least one other telecommunications resource. Cornell discloses the method wherein the managing step further comprises changing connections between said at least one telecommunications resource and at least one other telecommunications resource (see abstract). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine

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both teachings for an increased profit having enhanced management of the telecommunication resources.

As to claim 17, OFFICIAL NOTICE IS TAKEN that the method of generating billing reports reflecting usage of a telecommunications resource is a common and well known technique. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this technique in order to have financial gain.

As to claims 8-10 and 18-19, OFFICIAL NOTICE IS TAKEN that the method of monitoring and reporting trouble reports, providing technical support, and monitoring performance status in a telecommunications resource is a common and well known technique. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this technique to the Saaverda system for the simple purpose of having a reliable system.

As to claims 15 and 16, OFFICIAL NOTICE IS TAKEN that the method of collecting and archiving a video record of physical activity is a common and well known technique. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to record and archive video in the colocation site for security purposes.

Regarding claims 27-30, and 35-40, they are the corresponding apparatus claims of method claims 7-10 and 15-40. Therefore, claims 27-30, and 35-40 are rejected for the same reason shown above.

7. Claims 5 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saaverda US006459702B1 in view of Rasanen US006647006B1 in further view of

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McKinnin US20020003806 as applied to claim 1 above, and further in view of WilliamsUS005880864A.

As to claim 5, Saaverda discloses the method wherein said communicating step further comprises communicating with customers regarding a telecommunications resource (see col. 8, lines 10-12). Saaverda does not specifically disclose a telecommunications resource comprising an optical switching platform connecting the disparate telecommunications networks. In an analogous art, Williams discloses a telecommunications resource comprising an optical switching platform connecting the disparate telecommunications networks (see col. 6, lines 10-14; col. 13, lines 34-45), thereby increasing the bandwidth. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings for handling increased network traffic.

Regarding claim 25 is the corresponding apparatus claim of method claim 5. Therefore, claim 25 is rejected for the same reason shown above.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not



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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this Office Action should be mailed to:

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P.O. Box 1450  
Alexandria, VA 22313-1450

Or faxed to:

(703) 872-9306

for formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L Torres whose telephone number is 703-305-1478. The examiner can normally be reached on 8:00am-6:00 PM alt. Wednesday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G Kincaid can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**SONNY TRINH**  
**PRIMARY EXAMINER**

Marcos L Torres  
Examiner  
Art Unit 2687

Mlt